

REMARKS

The following remarks, taken together with the claim amendments listed herein, are provided in response to the Office Action communication dated June 8, 2009, wherein the shortened statutory period for response expired on September 8, 2009. Accordingly, Applicants petition herewith for a one-month extension of time.

Upon receipt of the present Office Action, Applicants' claims 1-20 and 22-46 were pending in the subject application, of which claims 1-20, 24 and 25 have been withdrawn from further consideration. The Examiner has also withdrawn recognition of the allowable subject matter associated with previously presented claims 22 and 23 in view of new grounds for rejection provided in the present Office Action.

Claims 22, 23, 26-30, 32, 35, 36, 44, 45 and 46 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0095369 (hereinafter "Kaplan") in view of U.S. Patent Application Publication No. 2004/0024695 (hereinafter "Melamed") and Official Notice. Claim 31 currently stands rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Melamed, Official Notice and U.S. Patent 7,174,313 (hereinafter "Martinez"). Claims 33 and 34 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Melamed, Official Notice and U.S. Patent Application Publication No. 2006/0069635 (hereinafter "Ram"). Claims 37 and 41 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Melamed, Official Notice and U.S. Patent Application Publication No. 2002/0059127 (hereinafter "Andrus"). Claims 38, 40, 42 and 43 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Melamed, Official Notice and U.S. Patent Application Publication No. 2002/0032586 (hereinafter "Joao"). Claim 39 currently stands rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Melamed, Official Notice, Joao and non-patent literature entitled "Federal Financial Supervisory Authority (hereinafter "Bafin").

Applicants have proposed further amending the claims, as reflected under the heading "Listing of Claims" beginning on page 2 of this paper, to more clearly distinguish the patentable

subject matter of the claimed invention. In addition, Applicants submit the following remarks wherein the Examiner's rejections are respectfully traversed.

Claim Objections

In the present Office Action, the Examiner has indicated that should claims 32 and 37 be found allowable, claims 41 and 44 will be objected to under 37 C.F.R. §1.75 as allegedly being a substantial duplicate thereof.

Without conceding the propriety of the anticipated objection, and solely to advance prosecution of the claimed invention, Applicants have canceled duplicate claims 41 and 44, as reflected under the heading "Listing of Claims" beginning on page 2 of this paper. Accordingly, this anticipated objection is rendered moot.

In view of the foregoing amendment, Applicants respectfully request that the objection to the aforementioned remaining claims under 37 C.F.R. §1.75 be withdrawn.

Rejection of Claims under 35 U.S.C. § 101

Claim 46 currently stands rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter.

Without conceding the propriety of the rejection, and solely to advance prosecution of the claimed invention, Applicants have canceled claim 46, as reflected under the heading "Listing of Claims" beginning on page 2 of this paper. Accordingly, the rejection of this claim is rendered moot.

In view of the foregoing amendment, Applicants respectfully request that the rejection of the aforementioned claim under 35 U.S.C. §101 be withdrawn.

Rejection of Claims under 35 U.S.C. § 103(a)

In rejecting claims 22 and 23, the Examiner asserts that all of the limitations recited in these independent claims are shown by the combined teachings of Kaplan, Melamed and Official Notice. *Office Action, Page 5.*

Pursuant to MPEP § 2142, to establish a *prima facie* case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in *KSR* has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, an obviousness rejection "cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, "[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP § 706.02(j).

In the present Office Action, the Examiner contends that the combined teachings of Kaplan and Melamed primarily disclose all of the elements of Applicants' claimed invention. The Examiner also acknowledges, on page 6 of the present Office Action, that Kaplan does not explicitly disclose linking of a first investment deal to a single debt index, a second investment deal to the single debt index or changing at least one debt obligation from a plurality of debt obligations in the single debt index according to terms of an asset management agreement, all of which are provided by Applicants' claimed invention. Rather, the Examiner alleges that Melamed discloses these particular limitations of Applicants' claimed invention.

Accordingly, the Examiner has taken the position that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to practice Applicants' claimed method for managing collateralized obligations by combining the methods taught by Kaplan and Melamed. Contrary to the Examiner's assertion, Applicants submit that the combined disclosures of Kaplan and Melamed are deficient in teaching all of the limitations of Applicants' claimed invention and, therefore, fail to properly establish a *prima facie* case of obviousness under the statutory provisions of 35 U.S.C. §103(a). Accordingly, Applicants respectfully traverse the foregoing rejection.

Applicants kindly direct the Examiner's attention to the following limitations recited in currently amended independent claims 22 and 23:

“determining if predefined criteria for selecting and substituting the at least one debt obligation from the plurality of debt obligations in the single debt index is satisfied according to the terms of the asset management agreement” (emphasis added).

Applicants have examined and considered the disclosures of Kaplan and Melamed in their entirety and respectfully submit that nowhere is there a teaching, expressly or implied, of changing a debt obligation in a debt index, let alone determining if predefined criteria for selecting and substituting the debt obligation in the debt index is satisfied in accordance with terms of an asset management agreement. Support for these claim limitations can be found at least in paragraphs [0056], [0059] and [0076] thru [0091] of Applicants' specification, as published in U.S. Patent Application Publication No. 2004/0143528.

In view of the foregoing amendments and corresponding remarks, currently amended independent claim 22 and currently amended independent claim 23, including claims 26-40 and 42-43 which depend therefrom, are patentable over the disclosures of Kaplan and Melamed, whether viewed independently or in combination with any other alleged prior art reference. Accordingly, Applicants respectfully request that the rejection of these claims under the statutory provisions of 35 U.S.C. § 103(a) be withdrawn.

Conclusion

For at least the reasons set forth above, reconsideration and prompt allowance of this patent application, as amended, are respectfully requested. If it will advance the prosecution of this patent application, the Examiner is urged to telephone (973.597.6326) Applicants' undersigned representative.

Respectfully submitted,

Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

Dated: October 6, 2009

By: s/David Toma/

David Toma, Esq.
Attorney for Applicants
Reg. No. 57,380